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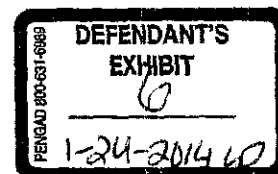
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October 14, 2008

Stephen P. Finn, Principal,
Briar Middle School
3700 South Avenue
Sandusky, Ohio 44870

Re: Carol Smith



REBUTTAL TO REPRIMAND

Dear Principal Finn:

This letter is a response and rebuttal to your October 6, 2008 "reprimand" of Carol Smith, wherein you determined that my client is guilty of "unprofessional" conduct associated with "sleeping" during class periods.

As my client informed you at the time of your October 2, 2008 conference with her, she has been diagnosed with a disease, specifically "diabetes", which is not altogether controlled with medication at the present time. See letter, attached, from Certified Nurse Practitioner Michele Poulos, R.N., M.S.N., C.N.P., of Northern Ohio Medical Specialists Healthcare. When Mrs. Smith's blood sugar runs too high or too low her body reacts in a manner that can result in symptoms including lethargy, irritability, nausea, sweating, and mood changes. Mrs. Smith is aware of her condition and has consistently worked to control this disease. At times, particularly if she is experiencing elevated blood sugar, Mrs. Smith may appear to be sleeping even though she is awake and fully aware of her surroundings. At such times, she may require simple treatment such as eating a candy bar or, in the event of a more serious reaction, she could require medical attention. However, by working closely with her treating physician and constantly self-monitoring, Mrs. Smith's current medications have been reasonably effective in controlling her symptoms.

Please be advised that Mrs. Smith's diabetes has never prevented her from performing the essential functions of her job, nor has she ever placed any of her students at risk or in harms way as a result of her diabetic symptoms. While she may, at times, have appeared to be "sleeping", she has always been aware of what is going on in the classroom. In particular, Mrs. Smith expressly denies sleeping on the dates identified in your letter of reprimand, with the exception of the September 4, 2008 date. On that day, although she did sleep for approximately ten minutes, she was alone in the choir room at the time and

there were no students present. Thus, no students were left unsupervised. In fact, that situation is no different, for example, than you taking a power nap in the middle of the day. The only difference is that Mrs. Smith cannot close the door.

Instead of reprimanding my client for experiencing symptoms of a medical condition that is difficult to control, it would be far more beneficial to all concerned to provide an accommodation for her in the event her sugar becomes too high or too low. Specifically, if Mrs. Smith appears to be "sleeping" someone such as a teacher or administrator could simply ask if she is okay or if she needs a candy bar or juice. Sometimes, if her sugar is too low, she may need to take a break to inject herself with insulin. In a situation like that, Mrs. Smith may need an adult to take her place for five or ten minutes in order to go to a private place to inject herself. In addition, it would be extremely beneficial for you and your staff to obtain some minimal training on recognizing the signs of Diabetes and understanding its symptoms since to an uninformed person what appears to be drunkenness, sleeping, awkwardness or disorientation are in fact symptoms of uncontrolled blood sugar.

Furthermore, at this time and unless her medical condition becomes far more severe, Mrs. Smith does not require a medical leave. She is fully capable of performing all the essential functions of her job. What she does require, however, is to be provided with the relatively simple and reasonable type of accommodation suggested above. Any further disciplinary action arising out of or in response to knowledge of the symptoms associated with her disability will be considered harassment and/or retaliation.

Finally, please assure a copy of this rebuttal statement is included in Mrs. Smith's employment file and do not hesitate to contact my office if you have any questions. Your cooperation in this matter will be appreciated.

Respectfully,



Thomas J. Zraik

Cc:

Carol Smith

Superintendent James Gunner

John Gerber, PEA President